

Serial No.: 10/649,910
Amdt. dated 13 October 2006
Reply to Office Action of 02 October 2006

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REMARKS

The Office Action of 02 October 2006 included a restriction requirement for the claims pending in the subject application. According to the Office Action, the claims are drawn to two groups: Group I, including claims 1-20; and Group II, including claims 21-22.

By the present amendment, claims 21-22 have been withdrawn, however, Applicant reserves the right to file one or more divisional or continuation application directed to the subject matter of these withdrawn claims.

Election

In response to the restriction requirement, Applicant hereby elects, with traverse, the claimed invention of Group I (i.e., claims 1-20 directed to laser systems) for further prosecution in the subject application.

Arguments against Restriction

Applicant traverses the restriction requirement and contends that the Examiner's grounds for the restriction requirement are inaccurate, and, therefore, that the restriction requirement itself is improper.

In making the requirement, the Examiner cited a portion of MPEP § 806.05(e), then concluding that a claim restriction is appropriate for this application is incorrect. The cited portion of MPEP § 806.05(e) states that between claims directed to a process and apparatus for its practice, restriction is appropriate if the claimed apparatus can be used to practice another materially different process than the claimed one. For the instant restriction requirement, however, the Examiner failed to consider all of the limitations present in the claims, instead justifying restriction on the following rationale: "In this case the process can be performed by a different energy source such as UV or e-beam." Applicant respectfully disagrees for the following reasons.

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The process (method) claims of Group II (claims 21 and 22) recite energizing a laser to cause the selective emission of optical radiation in first and second infrared ranges, e.g., as claims 21 states: "energizing a laser to cause the selective emission of first radiation in a first wavelength range of 865nm to 875nm and the selective emission of second radiation at a second wavelength range of 865nm to 875nm." This limitation includes energizing a laser to produce infrared light, not UV light or electrons as posited by the Examiner for the restriction requirement. Claim 22 shares a similar limitation of energizing a laser to cause selective emission of light in two infrared ranges. Underscoring this limitation of energizing a laser to cause infrared emission, the specification as filed teaches the use of solid state diode lasers and/or lasers with titanium sapphire as an active medium. *See, e.g.*, Specification, page 3. One skilled in the art, when reading claims 21 and 22 in light of the specification, would understand that these claims are directed to use of infrared lasers producing infrared energy in two specific wavelength ranges. Thus, the Examiner has ignored the plain text of the claims at issue and clearly not adhered to the requirements of MPEP § 806.01, which requires that "In passing upon matters of double patenting and restriction, it is the claimed subject matter that is considered."

For the reasons stated above, the Applicant requests reconsideration and withdrawal of the restriction requirement. Please charge any fees which may be due, or credit any overpayment, to Deposit Account Number 50-1133. The Examiner is invited to telephone the undersigned attorney to discuss any aspect of this application or this response.

Respectfully submitted,

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